

Group III: Claims 4 and 25-32, drawn to a non ionic catalyst for the polymerization of olefins using additional compounds.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. MPEP §803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has improperly required restriction of the national stage of an international application under 35 U.S.C. §121, rather than under the PCT rules.

This application is the national stage of international application PCT/JP00/00229, filed January 19, 2000, and is properly subject to restriction only under the PCT rules. As noted in MPEP §1895.01(D), restriction practice under 35 U.S.C. §121, as it applies to national applications submitted under 35 U.S.C. §111(a), is not applicable to a national stage application such as this one. Applicants respectfully point out the PCT administrative instructions in MPEP, Annex B, Part 1, which provide direction on restriction practice under the PCT rules. The Office has not made out a proper case of restriction under the PCT rules, and the Restriction Requirement should be withdrawn.

Furthermore, even if restriction under 35 U.S.C. §121 were proper, Applicants respectfully submit that the Office has failed to properly support a conclusion of patentable distinctness between the identified groups.

The Office has characterized the inventions of Groups I-III as “unrelated.” Applicants note that the inventions of Groups I-III are classified in the same class and subclass. However, the MPEP describes unrelated inventions as, for example, “an article of apparel such as a shoe, and a locomotive bearing”, or “a process of painting a house and a process of boring a well.” MPEP § 806.04(A). Thus, unrelated inventions, as defined by the MPEP, are inventions which are directed to *completely* different technical fields, and have no

reasonable relationship with each other. Accordingly, Applicants respectfully submit that the Office has not shown how the inventions of these groups meet the standard of "unrelatedness" of MPEP § 806.04(A). Applicants therefore respectfully submit that the requirement for restriction is improper, and request that it be withdrawn.

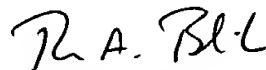
With respect to the elected species, Applicants respectfully submit that should the elected species be found allowable, the Office should expand its search to the non-elected species.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the requirement for restriction. Withdrawal of the requirement for restriction is respectfully requested.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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